

Application No. 09/889,628

Amendment dated December 12, 2003

Amendment and Response to Final Office Action of November 19, 2003

**REMARKS/ARGUMENT**

The Office Action, dated November 19, 2003, has been carefully considered. Accordingly, the changes presented herewith, taken with the following remarks, are believed sufficient to place the present claims in better condition for allowance. Reconsideration and allowance of all remaining claims is respectfully requested.

**Status Of The Claims**

In the present amendment, Claims 29 and 31 have been canceled without prejudice. Claim 1 has been amended to incorporate compression pressures. Claims 27, 28, and 32 have been amended to incorporate a range of compression pressures. The support for these amendments is found in the specification and claims as previously filed. Claims 2-15 and 30 were previously canceled. Claims 1 and 16-28 and 31-32 are now pending in this application.

**Formal Matters**

For the record, there are no objections or rejections under §112 outstanding.

**Rejection Under 35 U.S.C. § 103(a)**

**Claims 1, 16-29, and 31-32 are rejected by the Examiner under 35 U.S.C. § 103(a) as allegedly defining obvious subject matter over Schmidt (EP 0,799,866) in view of Davidson (U.S. Patent No. 3,951,821) and further in view of Gladfelter et. al (WO 92/20774) (hereinafter “Gladfelter”), for reasons of record at page 2 of the Office Action.**

The Final Office Action (Paper 6) concludes that it would have been obvious to one of ordinary skill in the art at the time the invention was made to prepare the detergent tablet of Schmidt and Davidson in the form taught by Gladfelter because this would dispense compatible or incompatible actives in one system as taught by Gladfelter, as well as, encompass the required compression pressures. Furthermore, although the Examiner recognizes that Gladfelter fails to specifically disclose a tablet having a first phase in the form of a shaped body having a mould therein and a second phase in the form of a particulate solid compressed within the mould, the Examiner, nevertheless, concludes that since processes like tabletting would have been obvious to one of ordinary skill in the art at the time the invention, the compression pressures, as well as, adhesion of the two phases by affixation are suggested by the combined teachings of Schmidt, Davidson, and Gladfelter and allegedly encompass the Applicant’s tablet.

The Applicants respectfully disagree with the Examiner's conclusion. Applicants respectfully submit that Gladfelter fails to teach the claimed invention as claimed in Claims 1 and 16-29 and 31-32, as amended.

The Applicants wish to point out to the Examiner that neither Schmidt, Davidson nor Gladfelter, alone or in combination, teach or suggest a detergent tablet having two phases compressed at different compression pressures as set out in the instant claims. The Applicants' multi-phase tablet comprises (i) a first phase in the form of a shaped body having at least one mould therein, the shaped body being compressed at a pressure of at least about 250 kg/cm<sup>2</sup>; and (ii) a second phase is in the form of a compressed particulate solid affixed within said mould, the compressed particulate solid being compressed at a pressure of less than about 350 kg/cm<sup>2</sup>. While Schmidt is directed to detergent tablets that are easily soluble in washing water (see Schmidt, paragraph 0001, page 2, lines 4-6), Applicants find no teaching or suggestion of a multi-phase tablet or a detergent tablet having phases compressed at more than one compression pressure. In fact, both Schmidt and Davidson teach away from the tablet compression pressures recited in Applicants' claims.

Schmidt teaches that its detergent tablets are "compressed on a tabletting machine of the KORSCH EK III-type by means of a pressure of 50 - 60 kN. The tablets [have] a circular cross section of a diameter of 40 mm, a height of 12 - 14 mm and a weight of 25 g" (see Schmidt, paragraph 0072, page 7, lines 47-50). This corresponds to a tablet compression pressure of from about 101 kg/cm<sup>2</sup> to about 122 kg/cm<sup>2</sup>. Schmidt does not teach or suggest a detergent tablet having been formed by a compression pressure of at least about 250 kg/cm<sup>2</sup> as is found in the Applicant's first phase. It is error to find obviousness where references diverge from and teach away from the invention at hand, *In re Fine*, 5 U.S.P.Q.2d 1596, 1599 (Fed. Cir. 1988). Thus, Schmidt does not render the presently claimed detergent tablets obvious.

Moreover, Davidson does not resolve the deficiencies of Schmidt. While Davidson is directed to tablets containing "tubules" as disintegrating agents, Applicants find no teaching or suggestion of a multi-phase tablet or a detergent tablet having a phase compressed at more than one compression pressure. Davidson teaches that the detergent tablet is formed by compression at 2000-3000 psi compression pressure (see Davidson, Example 1, col. 4, lines 52-56). This corresponds to a tablet compression pressure of from about 140 kg/cm<sup>2</sup> to about 211 kg/cm<sup>2</sup>. Davidson does not teach or suggest a detergent tablet having been formed by a compression pressure of at least about 250 kg/cm<sup>2</sup>. Thus, the combination of Schmidt and Davidson does not render the presently claimed detergent tablets obvious.

The deficiencies of Schmidt and Davidson are also unresolved by Gladfelter, which is directed to a solid chemical concentrate system of at least two cooperative shapes. Gladfelter is silent on tablet compression pressures. Though the Examiner asserts that Gladfelter discloses tabletting processes known in the art, there is no motivation or expectation of success in Gladfelter to direct one to utilize multiple tabletting pressures or tabletting pressures outside the ranges specifically disclosed by either Schmidt or Davidson. Thus, the combination of Schmidt or Davidson in view of Gladfelter does not render the presently claimed detergent tablets obvious.

In addition, the Applicants submit that just because the insert in the Gladfelter tablet interlocks with the bar by fitting within the inner opening, it is not equivalent to physical affixation of the Applicants' second phase into the mould of the first phase, as is asserted by the Examiner. Applicants submit that Gladfelter only teach that the insert interlocks with the bar by fitting within said bar inner opening, said bar and insert providing at least one substantially continuous surface and wherein the bar comprises a first composition and the insert comprises a second composition (see Gladfelter, see Abstract). However, the Gladfelter reference is silent on the subject of affixation of its two cooperating shapes- bar and an interlocking insert. Gladfelter does not disclose or suggest that the insert is affixed to the bar of its concentrate system. Rather, it is merely shaped to cooperate with the bar for packaging, storage and use purposes. Gladfelter expressly stated that "function of the invention is to provide a concentrate system which allows manufacture, packaging, storage, and use...." (Gladfelter, page 5, lines 23-25). The Examiner assets that the Gladfelter insert interlocks with the bar by fitting within the inner opening and therefore, such fitting would be equivalent to physical adhesion. Gladfelter shows that the insert and the bar are clearly not affixed together.

Depending upon the need, the end consumer can easily separate the insert from the bar prior to use, if desired. *See* Gladfelter, page 26, lines 30-34; and page 28, lines 4-24. The present claims, as amended, provide that the second phase is affixed to the first phase. Unlike Gladfelter, the Applicants do not teach that their second phase can be removed by the end consumer. There is no motivation in Gladfelter to affix the insert of its concentrate system to the bar because it would defeat the purpose of packaging, storage and end use by the consumer, such as by separating the insert from the bar.

Moreover, Gladfelter is silent on the presence of more than one phase. Gladfelter is directed to a solid chemical concentrate system. Unlike Gladfelter, the Applicants' detergent tablet may have two or more phases, at least one of which is in the form of a compressed particulate solid (specification, page 6, line 40 through page 7, lines 1-8). Hence, the combination of Schmidt,

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Davidson and/or Gladfelter does not render the presently claimed multi-phase detergent tablets obvious.

It is well settled that to support a rejection under 35 U.S.C. § 103, a reference must provide an enabling disclosure, i.e., it must place the claimed invention in the possession of the public. *In re Payne*, 203 U.S.P.Q. 245 (CCPA 1979). Neither Schmidt nor Davidson, alone or in combination with Gladfelter, result in the detergent tablet having (i) a first phase in the form of a shaped body having at least one mould therein, the shaped body being prepared at a compression pressure of at least about 250 kg/cm<sup>2</sup>; and (ii) a second phase is in the form of a compressed particulate solid affixed within said mould, the compressed particulate solid being prepared at a compression pressure of less than from 350 kg/cm<sup>2</sup>.

In light of the foregoing, Applicants respectfully submit that Claim 1, as amended, is not rendered obvious over Schmidt or Davidson, alone or in combination with Gladfelter because the combined references fail to teach each and every element of Claim 1, as amended. Further, Applicants submit that Claims 16-29, and 31-32, which ultimately depend on Claim 1, as amended, are not rendered obvious over Schmidt or Davidson, alone or in combination with Gladfelter.

### **CONCLUSION**

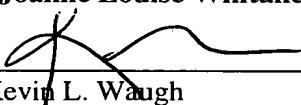
It is, therefore, submitted that the multi-phase tablets defined by the present claims, as amended, are not rendered obvious over Schmidt in view of Davidson or further in view of Gladfelter and are patentably distinguishable therefrom, whereby the rejection of 35 U.S.C. § 103(a) has been overcome. Reconsideration is respectfully requested.

It is believed that the above represents a complete response to the rejection under 35 U.S.C. § 103(a), and places the present application in condition for allowance. Reconsideration and an early allowance are requested.

Respectfully submitted,

For: **Joanne Louise Whitaker et al.**

By

  
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